

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA

Damorius D. Gaines, aka	)	
Damorius Dontavius Gaines,	)	C/A No. 4:17-2481-MBS
	)	
Petitioner,	)	
	)	
vs.	)	
	)	<b>ORDER AND OPINION</b>
Sheriff Chad McBride, Anderson County	)	
Detention Center,	)	
	)	
Respondent.	)	
_____	)	

Petitioner Damorius D. Gaines is a pretrial detainee currently housed at the Anderson County Detention Center in Anderson, South Carolina. On September 14, 2017, Petitioner, proceeding pro se and in forma pauperis, filed a petition for writ of habeas corpus under 28 U.S.C. § 2241, asserting that he was denied a preliminary hearing and that there is no evidence to support the charges pending against him. Petitioner seeks the dismissal of all charges. In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to United States Magistrate Judge Thomas E. Rogers, III for pretrial handling.

On October 3, 2017, the Magistrate Judge issued a Report and Recommendation in which he observed that an attempt to dismiss an indictment or otherwise prevent a prosecution is not cognizable under § 2241. The Magistrate Judge further noted that, pursuant to Younger v. Harris, 401, U.S. 37, 43-44 (1971), the court should abstain from ongoing state judicial proceedings when the proceedings implicate important state interests, and there is an adequate opportunity to raise federal claims in the state proceedings. ECF No. 16, 4 (quoting Martin Marietta Corp. V. Md. Comm'n on Human Relations, 38 F.3d 1392, 1396 (4<sup>th</sup> Cir. 1994)). The Magistrate Judge

determined that (1) an ongoing state criminal proceeding exists; (2) the state has an interest in administering its criminal justice system free from federal interference (citing Kelly v. Robinson, 479 U.S. 36, 49 (1986)); and (3) Petitioner has a sufficient opportunity to vindicate his rights during his state proceeding (citing Gilliam v. Foster, 75 F.3d 881, 903 (4<sup>th</sup> Cir. 1996)). Id. The Magistrate Judge found that no special circumstances exist to justify this court's review of the state court proceedings. Id. Accordingly, the Magistrate Judge recommended that the § 2241 petition be summarily dismissed without prejudice and without requiring Respondent to file a return.

Petitioner filed objections to the Report and Recommendation on October 12, 2017. Petitioner contends that he has filed numerous motions for a speedy trial and reiterates that he was not afforded a preliminary hearing. Petitioner also asserts that his public defender, who now has moved to a different judicial circuit, was working against him and intercepting his legal mail.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility for making a final determination remains with this court. Mathews v. Weber, 423 U.S. 261, 270 (1976). This court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the Magistrate Judge. 28 U.S.C. § 636(b)(1). This court may also receive further evidence or recommit the matter to the Magistrate Judge with instructions. Id. This court is obligated to conduct a de novo review of every portion of the Magistrate Judge's report to which objections have been filed. Id. However, the district court need not conduct a de novo review when a party makes only general and conclusory objections that do not direct the court to a specific error in the Magistrate Judge's proposed findings and recommendations. Orpiano v. Johnson, 687 F.2d 44, 47-48 (4<sup>th</sup> Cir. 1982).

Petitioner's objections express his disagreement with the Magistrate Judge, but fail to direct

the court to a specific error in the Magistrate Judge's Report and Recommendation. As the Magistrate Judge correctly stated, Petitioner can raise challenges to his criminal offenses in state court, at the trial level, on direct appeal, and through post-conviction relief. Petitioner's objections are without merit.

The court has thoroughly reviewed the record. The court concurs in the Report and Recommendation and incorporates it herein by reference. Petitioner's § 2241 petition is summarily dismissed without prejudice and without requiring Respondent to file a return.

**IT IS SO ORDERED.**

/s/ Margaret B. Seymour  
Senior United States District Judge

Columbia, South Carolina

February 15, 2018